



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

October 13, 2003

Ms. Lisa Ott Laky
Network Contracting Director
Austin Travis County Mental Health Mental Retardation Center
P.O. Box 3548
Austin, Texas 78764-3548

OR2003-7247

Dear Ms. Laky:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 189343.

The Austin Travis County Mental Health Mental Retardation Center (the "center") received a request for information "used to make the MR Service Coordinator RIF Selection to include the 100 hour consumer contact list for the months used for the selection, supporting client services reports, and any progress notes that support the time included on the list." The requestor also asks the center several questions in his request. We note that the Public Information Act (the "Act") does not require a governmental body to prepare answers to questions posed by a requestor. *See* Open Records Decision No. 555 at 1-2 (1990) (considering request for answers to fact questions). You state that the center is making some responsive information available to the requestor. You claim, however, that the remaining requested information is excepted from disclosure pursuant to section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the submitted representative sample documents.¹

¹ We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

You claim that the submitted information is excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 576.005 of the Health and Safety Code.² Section 576.005 provides that “[r]ecords of a mental health facility that directly or indirectly identify a present, former, or proposed patient are confidential unless disclosure is permitted by other state law.” Health & Safety Code § 576.005. You state that the submitted information contains information about the identity and treatment of persons who have received services from the center. Based on your representations and our review of the submitted information, we agree that this information constitutes records of a mental health facility that would directly or indirectly identify a patient of the center. You indicate that none of the exceptions to confidentiality for these records are applicable in this instance. Accordingly, we conclude that the center must withhold the remaining requested information in its entirety pursuant to section 552.101 of the Government Code in conjunction with section 576.005 of the Health and Safety Code.

You request that this office issue the center a previous determination that would allow it to withhold information that identifies any person who is a present, past, or proposed client of the center in response to future requests for such information without the necessity of seeking a ruling from this office. We decline to issue such a previous determination at this time.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records

² Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses information that is protected from disclosure by other statutes.

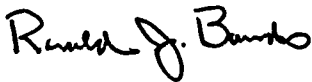
will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Ronald J. Bounds
Assistant Attorney General
Open Records Division

RJB/sdk

Ref: ID# 189343

Enc. Submitted documents

cc: Mr. James Hollinger
c/o Lisa Ott Laky
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(w/o enclosures)